# IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL FROM ORDER NO. 63 OF 2005

RELIANCE INFOCOM LTD., ....Appellant

Versus

SHRI MARCUS GRACIAS FLOR AND 2 ORS., ....Respondents

Mr. S.D.Lotlikar, Sr. Advocate with Ms. Shreya Naik, Advocate for the Appellant.
Mr. Mario Pinto Almeida Advocate For Respondents. No.1 to 3.

Coram:- A. P. LAVANDE, J.

Date:- 6th April, 2006

P.C.:

Heard Mr. Lotlikar, learned Senior Counsel appearing for the Appellant and Mr. Almeida, learned Counsel for the respondents.

2. This appeal is directed against the Order dated 19th September, 2005, insofar as it dismisses the application for injunction filed by the appellant herein who is the plaintiff in Special Civil Suit No. 62/2005/A pending before the Court of Civil Judge S.D., Margao. By the said Order dated 19th September, 2005, the trial Court disposed of three applications, one for injunction filed by the plaintiff, the second one for injunction filed by the defendant No.3 and the third application for exclusion of counter claim filed by the plaintiff.

3. From the perusal of the impugned Order insofar as it rejects the application filed by the plaintiff, it is evident that the trial Court while dealing with the said application, has not adverted to several documents relied upon by the plaintiff in support of its case. Mr. Lotlikar insisted that this Court should appreciate the materials placed on record before the

trial Court and decide the appeal. I am not inclined to accede to the request made by the learned Senior Counsel. It is also not disputed by the learned Counsel appearing for the respondents, that the trial Court has not adverted to several documents which are relevant for the purpose of deciding the application for injunction. It is well settled by a catena of decisions of the Apex Court that an appeal against an order refusing or granting an application for injunction is an appeal on principle. A Court dealing with the application for injunction is bound to make reference to the case set up by the parties as well as the documents produced by the parties and after analysing the same, give its findings thereto. In the present case, the trial Court while dealing with the application for injunction filed by the appellant/plaintiff, in paragraphs 15 to 18, has not made any reference to several documents which are relevant for deciding the application for injunction. The learned trial Judge has not discussed the documentary evidence produced by the plaintiff in support of its case which the trial Court was bound to consider before deciding the application. In my opinion, on this ground only the Order passed by the trial Court insofar as it rejects the application for injunction filed by the plaintiff, deserves to be quashed and set aside and the trial Court be directed to decide the application afresh in the light of the observations made above.

4. Mr. Lotlikar, learned Senior Counsel appearing for the appellant submits that the appellant is seriously prejudiced by rejection of the application which was filed in May, 2005. According to the learned Senior Counsel, the trial Court be directed to dispose of the application for injunction expeditiously. The prayer is not opposed by the learned Counsel for the respondents. I also find merit in the submission of Mr. Lotlikar.

5. Accordingly, I pass the following Order :-

The impugned Order dated 19th September, 2005 insofar it rejects the application for injunction filed by the plaintiff/appellant in Special Civil

Suit No.65/05/A, is quashed and set aside. The trial Court is directed to dispose of the application for injunction on or before 30th April, 2006 after hearing the parties. The trial Court shall decide the application afresh without being influenced by the observations made by him in the impugned Order. The parties to appear before the Trial Court on 15th April, 2006 at 10.00 a.m. for further directions.

The appeal stands disposed of.

A. P. LAVANDE, J.

sl.